IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

Crl.Rev.Pet.No. 2807 of 2004(A)

CC.607/2001 of JUDL.MAGISTRATE OF FIRST CLASS COURT-III, PALAKKAD
CRA.101/2003 of II ADDL. SESSIONS COURT, PALAKKAD
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REVN. PETITIONER: APPELLANT/ACCUSED:

ANILKUMAR, S/O. GOPALAN NAIR,
ANIL VIHAR, DHONI, PALAKKAD.

BY ADV. SRI.P.VIJAYA BHANU
SMT.P.MAYA

RESPONDENTS: RESPONDENT/COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.RENJITH B.MARAR
SRI. K.S. SIVAKUMAR, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON 12855/2004 IN CRL.R.P. NO. 2807/2004

DISMISSED

09.10.2007 SD/- V. RAMKUMAR, JUDGE.

/True Copy/

P.A to Judge.

V. RAMKUMAR, J.

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CRL. R.P. NO. 2807 OF 2004

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Dated, this the 9th day of October, 2007

ORDER

The revision petitioner, who was the driver of a stage carriage bus stands concurrently convicted and sentenced for offences punishable under Sections 279, 337 and 338 of the Indian Penal Code for allegedly driving the bus along the Olavakkode-Dhoni public road in a rash and negligent manner at 4.15 p.m. on 22.4.2001 resulting in PWs 9 and 10, who were cyclists, sustaining injuries while the bus overtook them.

2. Pending this revision, the revision petitioner compounded the offences punishable under Sections 337 and 338 with the injured persons namely PWs 9 and 10. Crl. M.A. No. 10475/2007 is the application for recording the composition and the same is ordered accordingly. It will have the effect of an acquittal of the revision petitioner of the offences under Sections 337 and 338 IPC in view of Section 320(8) Crl.P.C.

3. What now survives for consideration is the offence punishable under Section 279 IPC. The scene mahazer shows that eventhough it is a public road, it has a width of only 3.5 metres for its tarred portion. The revision petitioner was driving the bus from south to north and the

occurrence took place while the bus overtook PWs 9 and 10 who were riding the bicycle in the same direction. Merely because they sustained injuries, it cannot be concluded that the driving of the bus was in a rash and negligent manner particularly when it was the left rear portion of the bus which had hit to the 2 cyclists. It could as well be an error of judgment in a narrow road. The width of bus itself is 2 metres. Under these circumstances. the conviction entered and sentence imposed by the court below for the offence punishable under Section 279 IPC cannot be sustained and is dislodged. The revision petitioner will stand acquitted of the offence punishable under Section 279 IPC as well.

The Crl. R.P is disposed of accordingly.

V. RAMKUMAR,
(JUDGE)

rv